

VIA ECF

The Honorable Arun Subramanian
United States District Court, Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Courtroom 15A
New York, NY 10007-1312

Re: United States, et al. v. Live Nation Entertainment, Inc., et al., No. 1:24-cv-03973

Dear Judge Subramanian:

Non-parties Anschutz Entertainment Group, Inc. (“AEG”), SeatGeek, Inc. (“SeatGeek”), and Viagogo Entertainment Inc. (“StubHub”) (the “Non-Parties”), through the undersigned counsel, respectfully submit this letter in support of Plaintiffs’ proposed language set forth in Exhibit B to the Parties’ November 6, 2024, letter (ECF 335), to the extent that the Court determines that amendment of the Protective Order is necessary.

The Non-Parties write separately only to emphasize two points. **First**, the provision that affords notice to the producing party if their Confidential or Highly Confidential information is disclosed to Live Nation in-house counsel is critical because, among other reasons, as described in prior submissions to the Court (ECF 197 and 201), in-house counsel Dan Wall is actively involved in Defendants’ business operations—where Defendants compete with each of the Non-Parties. AEG separately notes that Mr. Wall has already used AEG’s internal documents to make public statements seeking to intimidate and exert competitive pressure on AEG during this lawsuit. Moreover, Live Nation has been unable to identify *any* in-house counsel that meet the criteria for viewing Confidential information under the Protective Order (ECF 213).

Second, the Non-Parties are aware of no legal precedent that would permit a defendant to unilaterally de-designate and disclose to the defendant’s employees information designated Confidential or Highly Confidential by a third-party (particularly a third-party that is a close competitor of the defendant), much less any precedent that would permit such de-designation without even affording notice to the third-party and an opportunity to object. While the Non-Parties are mindful of the Court’s guidance at the last hearing, the Non-Parties respectfully renew their request that the Court extend the same notice provision in Plaintiffs’ draft to cover not just disclosure to in-house counsel, but all of Defendants’ employees, consistent with the below redline:

~~“Prior to disclosing subject matter contained in a producing party’s Confidential or Highly Confidential Discovery Material or Investigation Material to the employees or in-house counsel set forth above, In order to seek approval for the two in house counsel described in this Paragraph 24 from the producing person,~~ Defendants must: (1) identify by bates number(s) the Confidential or Highly Confidential Discovery Material or Investigation Material they intend to disclose; and (2) identify the **employees and/or** in-house counsel to whom they intend to disclose such material.”

The Non-Parties should have the ability to at least know what internal Confidential and Highly Confidential information has been disclosed to Live Nation employees, particularly going forward when the parties and third-parties must necessarily understand and resolve issues regarding the confidentiality of the contents of documents for exhibits at deposition and trial.

Dated: November 7, 2024

Respectfully submitted,

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